

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

PHILBERT COLE,

Defendant.

Case No. 2:15-cr-00090-KJD-PAL

Ninth Circuit Court of Appeal No. 21-10053

ORDER

Presently before the Court is the Order (Doc. No. 85) of the Ninth Circuit Court of Appeals remanding this case for the limited purpose of “permitting the district court to provide appellant notice and an opportunity to request that the time for filing the notice of appeal be extended, for a period not to exceed 30 days from the expiration of the time prescribed by Rule 4(b), upon a finding of excusable neglect or good cause.”

The Court ordered Cole to show cause for his failure to file his notice of appeal timely and good cause for an extension. (Doc. No. 87). Defendant’s response (Doc. No. 88) included a letter from counsel dated February 16, 2021 incorporating details of a phone conversation counsel had with him on February 11, 2021 notifying him that a notice of appeal would have to be filed on February 12, 2021 in regards to the order denying his motion for compassionate release. Given the late date of the notice provided to Defendant, the Court finds Defendant’s delay caused by excusable neglect from the late notice provided to Defendant of the denial of his motion for compassionate release.

Accordingly, Defendant is granted a ten-day extension to file his notice of appeal.

The Clerk of the Court shall provide a copy of this order to the Court of Appeals.

DATED this 9th day of April 2021.



Kent J. Dawson  
United States District Judge